

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, MARCH 11, 2010, 1:00 P.M.**

CALL TO ORDER

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Pat Haukohl	Jim Siepmann	Gary Goodchild
	Walter Kolb	Bill Mitchell	Bonnie Morris
	Bob Peregrine		

Commission

Members Absent: None

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager
Elfriede Sprague, Clerk III
Jason Fruth, Senior Planner

Guests Present:

Ed Muzik, DNR (SCU-1432)	John McCarthy (SCU-1432)	Tim Barbeau (SCU-1432)
Mary Kosalos (CZ-1696)	Nick Collen (SZT-1700)	Clare Durdon (SCU-1432)
Tim Barbeau (SCU-1432)	Paul Kanter (SCU-1432)	Atty. Mike Schober (SZT-1700)
Mary Eloranta (SCU-1432)	John McCarthy (SCU-1432)	Jon Spheris (CZ-1696)

CORRESPONDENCE:

None

MEETING APPROVAL:

32nd Annual Wisconsin Lakes Convention, March 31 and April 1, 2010, KI Convention Center, 333 Main St., Green Bay, WI 54301

No Commissioners were interested in attending.

MINUTES

- Approval of the February 18, 2010, Park and Planning Commission Minutes

Mr. Peregrine moved, seconded by Mr. Siepmann, and carried unanimously for approval, of the February 18, 2010, Park and Planning Commission Minutes.

PUBLIC COMMENT

Chairperson Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

SCHEDULED MATTER

• **SCU-1432 (Lapham Peak Snowmaking Operation) Town of Delafield, Section 29**

Mr. Mace presented the memorandum dated March 11, 2010 and made a part of these minutes. He explained the request is for reconsideration of the Park and Planning Commission's action of December 10, 2009 and a request to consider amending the conditions of approval for the DNR property located in Section 29, Town of Delafield.

Paul Kanter, Town of Delafield Chairperson spoke regarding Condition No. 3 of the County's December 10, 2009 decision, allowing the maximum number of gallons pumped from the well at Lapham Peak Park, which is used for snow making, to no longer be limited. He explained the Town of Delafield's motto, "A Perfect Environment" followed by three R's, representing "Residential, Recreational, and Responsible". The Lapham Peak State Forest encompasses 1,000 acres and the Town is very proud of this recreational facility. However, the Town questions

whether this unlimited use of water is responsible to the environment. As water becomes an increasingly important commodity, especially in the City of Waukesha, which borders the southeast corner of the Town of Delafield, the idea of allowing an unlimited draw of water is not a responsible decision. When the State sets aside a tract of land to be protected and preserved, the resources to be protected should be both above and below ground. The conditional use started with a permitted draw of 500,000 gallons per season with build out expected be about one million gallons and the usage has now gone to an unlimited amount. An increase in the draw as the project progresses may be a reasonable request, however to allow “unlimited” usage is not responsible usage.

Mrs. Haukohl explained she originally voted no to the conditional use because it allowed for unlimited water usage. She did not object to an increase in usage, but she would like to see a limit placed on the amount used. If in the future the petitioner needed an increase in allowed usage, they would have to return to the Commission for approval. She also objected to the fact that the wetland and well monitoring would stop in 2012.

Ed Muzik, Lapham Peak Park Manager, replied the DNR’s concern was whether or not the use of the water would have an environmental impact on the local wetlands, the neighboring private wells and the general water situation. Based on revenues, Lapham Peak is the busiest State park used during the winter in Wisconsin, with a regional reputation for the quality of its cross-country ski trails and facilities. The DNR hydro geologist Sharon Shafer, commented that the water usage for snow making at Lapham Peak is unlikely to have an impact on the adjacent wetlands nor on the neighboring private wells. Bob Biebel, SEWRPC water expert, stated to him that even a draw of six million gallons from the deep aquifer would be an insignificant use of water, a “drop in the bucket”. He added that the DNR is restricted on the well use from November to March, which is also the low water use time of the year. The conventional figure for snowmaking is a loss of up to 22% in evaporation, so nearly 80% of the water returns to the ground water system, and most of the water from the snowmaking is going into the adjacent wetlands. Preliminary indications are that the wetlands at the sight are expanding not receding. Concern over water usage is a valid issue and the projects impact is minimal compared to other allowed uses such as golf courses, outdoor sports facilities and even other snow making operations. This is the fourth year of snowmaking and is a Friends of Lapham Peak and DNR project. The project is largely funded by private donations and grants and as a result of the project there have been several positive spin offs at the park. There is now a Monday children’s’ group, Tuesday night free lessons, Wednesday night ski races, etc. none of which would be possible without consistent snow conditions.

Mary Eloranta, head coach of the Peak Nordic Ski Team spoke fervently in favor of continuing of the snowmaking operation. The consistent snow operations have enabled the youth programs to grow and there are close to 100 families now involved in the program. The improved conditions have provided wonderful recreational and competition related opportunities and provides an opportunity to develop a love of cross-country skiing, which is something that can be continued.

John McCarthy, Friends of Lapham Peak, explained that it is difficult to project the amount of water needed each season because of varying weather conditions, amount of snowfall, etc. A certain amount of snow is required to pack the trails and there is no way to know how much that will be. Come December, if the pond is high, they immediately draw from it and if it is low, they need to fill it from the well. Therefore, having a restriction on the amount of water that can be used has an impact on their ability to make snow. The original amount of 500,000 gallons covered about one km of trail and was barely enough to get through the first year. The original estimate was for one million gallons. Based on the needs of the last three years, it has not proved to be enough. They are anticipating using more as they expand the trails. Currently they are making snow on about 1.5 km of trail, plus a play area that is set up for the children lessons. It will take years to build out to the projected 5 km. This build out will require additional fund raising, piping, snow guns, etc., and will progress as the monies become available.

Mr. Peregrine asked if there was a projected number of gallons that they would need other than an unlimited amount. Mr. McCarthy replied that it take about three million gallons to do the whole system, and that is based on a certain needed depth of snow, snow base, type of guns and width of the trail system.

Mr. Siepmann commented this is the only snow making facility in southern Wisconsin and we need to find an amount that everyone can live with while allowing enough for expansion of the trails. When the limit is reached and if there is need for a larger allowance, then the petitioners can come back and petition for more. Mr. Muzik replied that based on comparison figures, the local golfcourse, some local ski hills, etc. and in order not to peril the fundraising and the expansion, they feel six million gallons would be acceptable. Mr. McCarthy added the amount needed is subject to the amount of water in the pond. The pond is ground water fed and if there is a dry summer the pond is low and they will need to pump more water to fill it; however, the pond is never filled until it is ready to be used. The Commission felt six million gallons was excessive and thought a smaller number was more appropriate with the option of coming back later for more. Mr. Kolb added that because the current amount of usage is not having an effect on the surroundings, it would be reasonable to put a restriction on the usage. This would allow the Town and County to monitor the proceedings. Mr. Siepmann commented that because the expansion is funded with private dollars, it is important to set a limit that allows for the next phase.

Mrs. Haukohl asked based on the current amount of trails and the depth of snow needed, what would be a comfortable number of gallons that would be needed, plus the projected number for the next expansion. Mr. McCarthy felt 3 million gallons would be a comfortable number they could work with based on the current 1.5 km trail, the children's play area and the planned expansion for the coming year.

Mrs. Haukohl moved and seconded by Mr. Goodchild to amend Condition No. 3 of the December 11, 2009 approval to read:

The maximum number of gallons pumped from the well annually will be limited to three (3) million gallons. Additional usage beyond the amount approved will require notification to the Town of Delafield and approval of the Waukesha County Park and Planning Commission.

Mr. Kanter was asked if he was comfortable with the three million gallon limit. He replied, "Yes, the incremental approach allows us all to monitor the operation".

The motion carried unanimously for approval.

Mrs. Haukohl noted that currently the Wetland Reports are required to go to Staff for review through 2012. She would like to see those reports continued. Mr. McCarthy explained that as of this date, three years of monitoring has shown no impact on the wetlands. Findings have found that the wetlands have been increasing, partially because the drain tiles that were there have been removed allowing more ground water to accumulate and because of the melted snow. The next segment of pipe installation is going through some wetland areas this summer and is to be completed this year. The area will then be planted with seed and native species and restored. The original permit required a 3-year monitoring of the wetland restoration and ends in 2012. After that, someone will visit the wetlands annually and do a simple site inspection. She stated she would still like to see an annual water pumping report. Mr. McCarthy assured her that they would continue.

Mrs. Haukohl moved, seconded by Mr. Siepmann and carried unanimously for approval of SCU-1432 as amended.

• ZT-1699 (Town of Mukwonago)

Mr. Mace presented the "Staff Report and Recommendation" dated March 11, 2010, and made a part of these Minutes. He indicated the request is to revise Chapter 82 of the Town of Mukwonago Zoning Code by the repeal and recreation of the Zoning Map established under Section 82-51(A). The zoning map is an update of the Town of Mukwonago Zoning map to be consistent with their Comprehensive Land Use Plan and the County Comprehensive Development Plan.

Mr. Mace explained that with the new map, the Town continues to recognize the AP Agricultural Land Preservation District and there is much better definition of wetlands, lowland and upland corridor or C-1 Conservancy type lands. There was a slight concern over the piece of land the County owns but is currently rented as farmland, north

of Mukwonago Park and is shown as AP. All other public owned lands outside of the Environmental Corridor are zoned P-1 Public and the County questioned why this piece was not. However, the map also recognizes it is publicly owned and at such time in the future as we wish to convert its use to park, there should be no difficulty doing so, especially since the Land Use Plan recognizes it as future recreational lands. One complicating factor regarding that matter however is the conversion fees that are required to be paid for rezoning AG Preservation lands to some other use under the State's Farmland Preservation Program. The program mandates the payment of such conversion fees to the State when lands are zoned out of agricultural uses to other uses. However, recent legislation introduced in the legislature indicates that those conversion fee requirements may be delayed for some time while various Counties update their old Agricultural Preservation Plans. This would stay those fees until new Plans are approved by the Counties, in which case there may be some revision to a new County Agricultural Preservation Plan. Waukesha County's map needs to be revised by 2012, which may negate the need for the payment of conversion fees based on a new plan.

After discussion, Mr. Peregrine moved, seconded by Mr. Siepmann, and carried unanimously for approval, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances

• CZ-1696 (Mary Kosalos) Town of Oconomowoc, Section 35 (R-2 Residential District to the B-2 Local Business District)

Mr. Mace presented the "Staff Report and Recommendation" dated March 11, 2010, and made a part of these Minutes. He pointed out the location of the property in the NW ¼ of Section 35, Town of Oconomowoc.

Mr. Peregrine recused himself from the case. Mr. Mace stated the property contains two parcels, one parcel contains the vacant bar and attached residence and the vacant parcel to the east.. The Planning and Zoning Division Staff has modified some of the Town's conditions of approval. They felt it was not appropriate to have the conditional zoning take effect only when the tavern opens, so the condition was amended to have the zoning take effect after the buyer submits a new Site Plan/Plan of Operation. He has attempted to talk to Jeff Herrmann to discuss the changes, however has been unable to reach him regarding changing the effective date of the zoning. Condition No. 2 of the Town's approval was also amended to eliminate the required submittal date of the Certified Survey Map (CSM). At this point in time, the property has not been sold and it was felt the requirement puts an unnecessary burden on the petitioner. The CSM will be required at the time the Plan of Operation is submitted. The County is reluctant to approve the rezoning, even though it is on the Comprehensive Development Plan for Waukesha County as Commercial, as the area is mostly residential. At the public hearing, many of the neighbors spoke against the proposed rezoning, citing traffic and noise problems.

Mrs. Haukohl asked what the property was zoned previously? Mr. Mace replied the tavern was zoned residential and operated under a Conditional Use for many years. The CU has now expired and cannot be renewed under the terms of the Zoning Code. She expressed concerns that the property was changed to Commercial during the Development Plan process without notifying the neighbors. Mr. Mace answered this was part of the Comprehensive Development Plan the Town adopted.

Mr. Spheeris explained the property has been used as a tavern continuously for over 70 years and it was generally thought the property was zoned commercial. When the neighbors to the east bought their property, they knew the tavern was there. Two public hearings were held on the zoning; however, because of Gus's Kosalos's health they could no longer keep the property open as a tavern, so it was leased out. The leaser broke the lease and did not perform. In the mean time, Gus passed away and the tavern became vacant for more than 2 years, thereby causing the Conditional Use to lapse. The petitioner is now looking to sell the property and has approached the Town regarding the Commercial category. The Town agreed to the Commercial category; however, they specifically limited the use to tavern/restaurant, as they did not want a blanket B-2 zoning. They felt because it was a tavern/restaurant for all the previous years; it made sense for it to remain in that use. The owner has agreed to the conditions of approval of the Town and the County. Mrs. Haukohl asked what would happen if the parcel is not developed as a tavern/restaurant in the allotted 5 years to which Mr. Mace replied it would revert to its R-2 zoning.

Mr. Mace added that even though the Town adopted the Resolution approving the rezoning with their conditions, after the County Board approves the rezoning, the Town will have to agree to the modified conditions by either being silent for 40 days, or if they are going to take exception to the new conditions they can vote to deny the rezoning as redrafted.

After discussion, Mrs. Morris moved, seconded by Mr. Goodchild, and carried with 6 yes votes (Mr. Peregrine recused himself) for approval as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of her land and meets the intent and purposes of all County Ordinances.

• **SZT-1700 (Chuck's Lakeside, Inc.) Town of Summit, Section (B-1 Restricted Business, R-1 Residential and A-3 Suburban Estate Districts to the B-2 Local Business District (County) and from the NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts to the NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts with a Planned Development Overlay District (Town)**

Mr. Mace presented the "Staff Report and Recommendation" dated March 11, 2010, and made a part of these Minutes. He pointed out the location of the property directly north of the WDNR Silver Lake boat launch and north of C.T.H. "B" (Valley Road) in the Town of Summit.

Mr. Mace that explained at the public hearing there was concern from some of the lake residents regarding fugitive light and surface water runoff from the parking lot. Of great concern was the possibility of additional boat trailer parking using the DNR launch. It was explained that most of these issues would be addressed through the Town's Planned Development Overlay Ordinance and that any other concerns will be addressed during the Site Plan/Plan of Operation approval process. He continued that in the past, the parcel containing the residence, which is zoned R-2, had been used for parking. The rezoning will change this to the B-2 District to accommodate the use as a parking lot while allowing the continued residential use. The use will also be limited to the tavern/restaurant. Mrs. Haukohl was concerned about extending the parking area closer to the neighbors. Atty. Schober commented before they started on this project an invitation was sent to the residents around the lake to attend an informational meeting. A significant number of people attended who voiced their concerns, mostly involving additional traffic on the lake. A suggestion was made and agreed to that no boat trailer or watercraft parking signs be erected consistent with what the Town Police would need to enforce the restriction. In summary, all of the neighbors concerns were addressed and at subsequent Town meetings, there were very few, if not any persons present.

He stated that the petitioner has applied for and received parking setback variances from the west and the south side of the property at the March 10, 2010 Waukesha County Board of Adjustment meeting. These were needed so the parking lot, which is now being relocated outside of the right-of-way, could be located much closer to the right-of-way than the Ordinance allows. This change will represent a significant public benefit, because the prior parking had intruded into the street right of way anywhere from 5 ft. to 20 ft. To clarify it is a public right-of-way a 33 ft. wide dedication to Waukesha County is being required, along the entire frontage of the two subject parcels. The Summit Town Board has also reduced the number of parking spaces required through their PDO ordinance to 85 spaces, knowing that parking on this site is a challenge. Mrs. Morris asked if the petitioner was planning to add a deck to the tavern. Atty. Schober replied the petitioner is proposing to add a deck for smokers; however, a detailed Site Plan indicating that and other items still needs to be approved. The Town has also required the residence and the supper club be connected to sewer and the septic system abandoned.

After discussion, Mrs. Haukohl moved, seconded by Mrs. Morris, and carried unanimously for approval as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and meets the intent and purposes of all County Ordinances.

- **CU-1436A (Katherine Frame - Chestnut Hill Farm) Town of Oconomowoc, Section 8**

Mr. Mace presented the “Staff Report and Recommendation” dated March 11, 2010, and made a part of these Minutes. He pointed out the location of the property at W389 N8640 Pennsylvania St. in the Town of Oconomowoc on the aerial photograph. He indicated the request is to amend the Conditional Use for the horse boarding and training facility to increase the number of horses permitted from 19 to 35 and to make slight modifications to the number of employees and hours of operation.

There was no objection to the proposed changes as long as a revised Manure Management Plan is approved by the Land Resources Division. Mrs. Morris noted that is was on January 28, 2010.

After discussion, Mr. Siepmann moved, seconded by Mr. Kolb, and carried unanimously for approval as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of her land and meets the intent and purposes of all County Ordinances.

- **PO-10-OCOT-1 (Katherine Frame – Chestnut Hill Farm) Town of Oconomowoc, Section 8**

Mr. Mace presented the “Staff Report and Recommendation” dated March 11, 2010, and made a part of these Minutes. He indicated the request is related to the previous matter, CU-1436A.

After discussion, Mr. Peregrine moved, seconded by Mrs. Haukohl, and carried unanimously for approval as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of her land and meets the intent and purposes of all County Ordinances.

ADJOURNMENT

With no further business to come before the Commission, Mr. Peregrine moved, seconded by Mr. Siepmann to adjourn at 3:10 p.m.

Respectfully submitted,

Bonnie Morris
Secretary

BM:es